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EUGENE LIEBERSTEIN
2151 LONG RIDGE ROAD
STAMFORD CT 06903

COPY MAILED

SEP 11 2006

OFFICE OF PETITIONS

In re Application of	:	
Itzhak Shoher	:	
Application No. 09/729,362	:	DECISION ON PETITION
Filed: December 5, 2000	:	UNDER 37 C.F.R. §1.181
Attorney Docket No.: SHO-2000-4	:	
Title: PORTABLE DEVICE AND	:	
SYSTEM TO REMOTELY ACCESS A	:	
COMPUTER FROM A DISTANT	:	
LOCATION AND FOR USING A TV OR	:	
OTHER VIDEO MONITOR TO DISPLAY	:	
COMPUTER DATA	:	

This is a decision on the petition filed on June 26, 2006, pursuant to 37 C.F.R. §1.181, requesting that the holding of abandonment in the above-identified application be withdrawn.

BACKGROUND

The above-identified application became abandoned for failure to reply within the meaning of 37 C.F.R. §1.113 in a timely manner to the final Office action mailed September 14, 2005, which set a shortened statutory period for reply of three months. An after-final amendment was received on January 23, 2006 along with a one-month extension of time, and an advisory action was mailed on February 9, 2006. No extensions of time under the provisions of 37 C.F.R. §1.136(a) were obtained, and no further responses were received. Accordingly, the above-identified application became abandoned on January 15, 2006¹. A notice of abandonment was mailed on May 31, 2006.

¹ It is noted that this response contained a certificate of mailing dated January 17, 2006. It is noted that January 14, 2006 fell on a Saturday and January 16, 2006 was a federal holiday.

RELEVANT PORTION OF THE C.F.R.

37 C.F.R. §1.8(b) sets forth, *in toto*:

(b) In the event that correspondence is considered timely filed by being mailed or transmitted in accordance with paragraph (a) of this section, but not received in the U.S. Patent and Trademark Office after a reasonable amount of time has elapsed from the time of mailing or transmitting of the correspondence, or after the application is held to be abandoned, or after the proceeding is dismissed, terminated, or decided with prejudice, the correspondence will be considered timely if the party who forwarded such correspondence:

(1) Informs the Office of the previous mailing or transmission of the correspondence promptly after becoming aware that the Office has no evidence of receipt of the correspondence;

(2) Supplies an additional copy of the previously mailed or transmitted correspondence and certificate; and

(3) Includes a statement which attests on a personal knowledge basis or to the satisfaction of the Director to the previous timely mailing or transmission. If the correspondence was sent by facsimile transmission, a copy of the sending unit's report confirming transmission may be used to support this statement.

ANALYSIS

With the present petition, Petitioner has asserted that both a Request for Continued Examination (RCE) and a petition for a two-month extension of time were filed on February 16, 2006. Petitioner has submitted a copy of this submission, and it is noted that it contains a certificate of mailing dated February 14, 2006.

Certificate of mailing practice provides a mechanism by which Applicants may evince that a paper was timely submitted to the Office, in the event that the correspondence is not received. Petitioner has further included a copy of his postcard receipt, which contains a date stamp of February 16, 2006.

Petitioner's submission has been reviewed: with the present petition, Petitioner has informed the Office of the previous submission, provided an additional copy of the previously submitted correspondence, provided a photocopy of the check which was presented with this submission, and has included a statement which attests on a personal knowledge basis or to the satisfaction of the Director to the previous timely transmission.

Petitioner has requested that the holding of abandonment in the above-identified application be withdrawn. It is clear that a response was timely submitted, and subsequently misplaced in the

Office. However, it does not appear that Petitioner has submitted another check.

Since the RCE was misplaced in the Office, the check which Petitioner included along with this RCE was misplaced as well. It does not appear that the check has been cashed. The Office records have been reviewed, and they do not show receipt of either of these fees. It is noted that the petition does not appear to contain an authorization to charge any deficient fees to a Deposit Account.

As such, the petition must be **DISMISSED**.

Any reply must be submitted within **TWO (2) MONTHS** from the mail date of this decision. Extensions of time under 37 C.F.R. §1.136(a) are permitted. The reply should include a cover letter entitled "Renewed Petition Under 37 C.F.R. 1.181(a)." This is not a final agency action within the meaning of 5 U.S.C 704.

The renewed petition should indicate in a prominent manner that the attorney handling this matter is Paul Shanoski, and may be submitted by mail², hand-delivery³, or facsimile⁴.

With the renewed petition, Petitioner should include another check in order to pay the fees associated with the filing of the RCE and the two-month extension of time.

Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225⁵. All other inquiries concerning examination procedures or status of the application should be directed to the Technology Center.



Paul Shanoski
Senior Attorney
Office of Petitions
United States Patent and Trademark Office

² Mail Stop Petition, Commissioner for Patents, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA, 22313-1450.

³ Customer Window, Randolph Building, 401 Dulany Street, Alexandria, VA, 22314.

⁴ (571) 273-8300- please note this is a central facsimile number.

⁵ Petitioner will note that all practice before the Office should be in writing, and the action of the Office will be based exclusively on the written record in the Office. See 37 C.F.R. §1.2. As such, Petitioner is reminded that no telephone discussion may be controlling or considered authority for Petitioner's further action(s).